

REMARKS

In the Office Action of January 29, 2007, Claims 1-3, 7, 8, 10-14, 18, 19, 21, 25, 26 and 30-38 were rejected and Claims 4-6, 9, 15-17, 20, 22-24 and 27-29 were objected to.

Status of Claims

No amendments are made here. The listing of claims here is merely to show all the claims in clean form reflecting all previous amendments.

Traversal

The claim rejections are all traversed for the reasons set forth following.

Claim Rejections

The Examiner rejected Claims 1, 2, 7, 8, 11-13, 18, 19, 26 and 31-38 as anticipated under 35 U.S.C. §102(e) by Kamperman et al. US 6,580,682. The Examiner cited Kamperman columns 5, 6 and 7 chiefly.

The remaining rejected claims, which are Claims 3, 10, 14, 21, 25 and 30 stand rejected under 35 U.S.C. §103 over Kamperman US 6,580,682 further in view of Maeda et al. US 5,153,861. The Examiner cited Maeda columns 2, 3 and 4.

First grounds for traversal, the present rejection was earlier overcome and withdrawn by the Examiner

Note that the Examiner in an earlier Action in this case made essentially the same rejection against the same claims citing the same references as in the current Action. See the Office Action of December 22, 2005. In that Action, the same Examiner, Mr. Moorthy, rejected the same Claims 1, 2, 7, 8, 11-13, 18, 19, 26 and 31-38 under 35 U.S.C. §102(e) as anticipated by Kamperman et al. US 6,580,682. See page 3 of the Action. The Examiner cited Kamperman columns 2, 4, 5 and 6.

As to the remaining rejected claims in that Action, the Examiner again rejected the same Claims 3, 10, 14, 21, 25 and 30 under 35 U.S.C. §103 as unpatentable over Kamperman et al. US 6,580,682 further in view of Maeda et al. US 5,153,861. See page 5 of that Action. The Examiner cited to Maeda columns 2, 3 and 4.

Responsive to that Action, Applicant amended the independent claims. See Response filed April 21, 2006. In the argument made in that Response, it was pointed out how the amended claims distinguished over these references.

In the subsequent Action dated June 15, 2006, the Examiner made a new grounds of rejection under 35 U.S.C. §102 of Claims 1, 2, 7, 8, 11-13, 18, 19, 26 and 31-38 as being anticipated by Schylander et al. US 5,530,686.

The other Claims 3, 10, 14, 21, 25 and 30 rejected under 35 U.S.C. §103 as unpatentable over Schylander et al. US 5,530,686 further in view of Maeda US 5,153,861. See page 4 of the June 15, 2006 Action.

Applicant responded in an amendment filed November 8, 2006, in response to the final rejection traversing the rejection citing Schylander and Maeda.

In response, the Examiner provided an Advisory Action dated December 5, 2006, indicating that the case was still not in condition for allowance and he further discussed the Schylander reference.

Applicant in response filed an amendment dated December 14, 2006, with further claim amendments to distinguish over Schylander.

The present Action is in response to that amendment and rejects the claims, effectively circling back to the same grounds as the December 22, 2005 rejection.

Therefore, the present rejection is improper since the Examiner withdrew that earlier rejection of December 22, 2005, making a new rejection on new grounds. Note that the present claims are, if anything, more narrow than those subject to examination at that time since there has

been an amendment since then. Hence, if the rejection citing Kamperman and Maeda was not regarded by the Examiner then as being appropriate, it certainly is not now, given the claims are more specific now.

Moreover, the only difference between the December 22, 2005 rejection and the current one appears that the Examiner has referred to slightly different parts of Kamperman. However, given this is a relatively short reference and that there was significant overlap in the passages of Kamperman cited then and now, it is not seen why this is a relevant distinction. Hence it is believed that procedurally the present rejection is improper and should be withdrawn.

Second grounds for traversal - Claims Distinguish Over Kamperman

The following effectively reiterates the arguments made December 22, 2005, in pointing out why the present Kamperman rejection is not appropriate, even in combination with Maeda. Thus the rejections currently pending are again traversed.

Kamperman

As pointed out in detail in the Office Action response of December 22, 2005, at pages 12 and following, Kamperman is completely different in its approach than that to which the present claims are directed. Kamperman does not indicate or recognize any particular difference between optical disc players and readers, and does not recognize that there are significant technical distinctions between them.

Instead, Kamperman relies on installation of a closed or proprietary CD system, including special CDs and special players. Hence, the repeated mention in Kamperman of “non-compliant read devices,” which includes non-compliant players and recorders. See Kamperman column 3, lines 17 stating “existing, non-compliant read devices will try to read the format information from the predefined location, but will read the confusion pattern instead.”

Further in the same paragraph of Kamperman at line 25 “Hence a digital copy cannot be made using non-compliant players or recorders...While the format information is hidden for existing players, it can be easily retrieved by the player according to the invention.”

Hence Kamperman’s purported invention and his disclosure require both compliant or specialized players and compliant or specialized recorders. Kamperman states beginning at column 3, line 35:

The invention is based on the recognition that the format information must be available, but cannot be manipulated in non-compliant devices. By relocating the format information uncontrolled playback of copy protected discs by existing, non-complaint devices; can be prevented.

Hence in Kamperman, the relevant distinction is between the prior art (standard) non-compliant read devices, which include players and recorders (readers), but Kamperman does not recognize any relevant distinction between players and recorders/readers. Instead, the Kamperman distinction is that his compliant recorder or playback apparatus as shown in his FIG. 9 includes special adaptations in the control unit 20. That is why Kamperman claims his purportedly inventive playback apparatus. For instance, see his Claim 3. See also description of same at Kamperman column 8, beginning line 47, describing the operation of the control unit 20 in the compliant device.

In other words, if a CD of the Kamperman type was played on a conventional or standard player, playback would not be successful. This is, of course, contrary to the case in accordance with the present invention wherein a CD in accordance with the invention is fully playable on a standard player, but cannot be read (played) by a standard reader.

Hence it is clear that Claim 1 distinguishes over Kamperman because at least Claim 1 recites beginning in line 5 “a conventional commercially available CD music player such that the player is able to play the audio data, whereas if a data reader, which is enabled to read data and process information from each sector of the compact disc, reads the incorrect, selected control data, the reading confuses the data reader...wherein copying of the audio data is thereby prevented.”

In accordance with the present invention, an ordinary player which Kamperman refers to as a non-compliant player or non-compliant read device, is indeed able to play the recorded audio data. The distinction is, in accordance with Claim 1, a data reader is not able to render a copy from a conventional CD.

In other words, Kamperman takes a substantially different approach in accordance from that of the present invention. See Applicant's Response of April 21, 2006, at page 11.

In accordance with the present invention, there is a method for copy protecting compact discs such that incorrect data is provided on the compact disc, such data being of the type being in sectors which are inaccessible to or are not generally read by an audio player. Hence a legitimate audio compact disc purchased by user can be played normally on such an audio player, for example a home music center. However, the incorrect data on the CD when read by a data reader renders that CD (which is not necessarily a copied CD, but may even be an original CD) unplayable by the data reader (e.g., a CDROM disc drive). This prevents playing of the data from even a legitimate CD of this type by the data reader. However, any changes in accordance with the invention are those made on the compact disc. No special or compliant player is needed. Instead, the invention is operable with a standard player. Further, of course, in accordance with the invention these particular compact discs are unplayable by even a standard data reader.

Further as pointed out above, Kamperman's different approach instead uses a closed or proprietary CD system, including both special CDs and special players.

Hence it is not seen how the Examiner reads Kamperman on Claim 1, which thereby distinguishes thereover.

The other independent claims are directed in this respect to similar subject matter as Claim 1 and similarly distinguish over Kamperman, even in combination with Maeda.

Maeda

It is not seen how Maeda remedies the above deficiencies in Kamperman, since the Examiner cited Maeda only to meet certain of the particular dependent claims, and the above remarks point out that the independent claims distinguish over Kamperman. Maeda does not meet the deficiencies as pointed out above in Kamperman as regards the independent claims and therefore even the combination of Kamperman and Maeda does meet the independent claims, which are Claims 1, 8, 12 and 19.

Piecemeal Examination

It is pointed out that this application has been subject to piecemeal examination. This is contrary to MPEP, see MPEP 707.07(g) which states "Piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available, avoiding, however, undue multiplication of references." The examination in this case has been quite protracted without reason. Now the Examiner is circling back and making essentially the same rejections as made earlier against claims which have been narrowed since then. If the current claims had been broadened since the earlier rejection, reinstating an earlier rejection which had been withdrawn might make sense. However that is not the case here and it is submitted that the examination of this case is contrary to MPEP and moreover not in the spirit of the patent regulations and statutes.

Therefore it is requested that the examination of this case be brought to a conclusion with allowance of all pending claims, or a proper rejection be made.

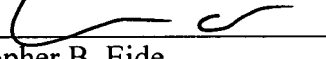
CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing Attorney Docket No. 136922002700.

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Respectfully submitted,

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